

AMENDED IN SENATE APRIL 2, 2009

SENATE BILL

No. 544

**Introduced by Committee on Judiciary (Senators Corbett (Chair),
Flores, Harman, Leno, and Walters)**

February 27, 2009

An act to amend Section 1798.79 of the Civil Code, relating to civil law.

LEGISLATIVE COUNSEL'S DIGEST

SB 544, as amended, Committee on Judiciary. Civil law: omnibus bill.

~~Existing law, the Civil Code, is composed of 4 divisions relating to persons, property, obligations, and general provisions relating to persons, property, and obligations.~~

~~This bill would declare the intent of the Legislature to enact technical and noncontroversial statutory changes relating to civil law.~~

Existing law provides that a person or entity that intentionally remotely reads or attempts to remotely read a person's identification document using radio frequency identification (RFID) without his or her knowledge and prior consent, as described, shall be punished by imprisonment in a county jail for up to one year, a fine of not more than \$1,500, or both that fine and imprisonment, except as specified. Existing law also provides that a person or entity that knowingly discloses, or causes to be disclosed, specified operational system keys shall be punished by imprisonment in a county jail for up to one year, a fine of not more than \$1,500, or both that fine and imprisonment.

This bill would correct a cross reference within these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 1798.79 of the Civil Code is amended to*
2 *read:*

3 1798.79. (a) Except as provided in this section, a person or
4 entity that intentionally remotely reads or attempts to remotely
5 read a person's identification document using radio frequency
6 identification (RFID), for the purpose of reading that person's
7 identification document without that person's knowledge and prior
8 consent, shall be punished by imprisonment in a county jail for up
9 to one year, a fine of not more than one thousand five hundred
10 dollars (\$1,500), or both that fine and imprisonment.

11 (b) A person or entity that knowingly discloses, or causes to be
12 disclosed, the operational system keys used in a contactless
13 identification document system shall be punished by imprisonment
14 in a county jail for up to one year, a fine of not more than one
15 thousand five hundred dollars (\$1,500), or both that fine and
16 imprisonment.

17 (c) Subdivision (a) shall not apply to:

18 (1) The reading of a person's identification document for triage
19 or medical care during a disaster and immediate hospitalization or
20 immediate outpatient care directly related to a disaster, as defined
21 by the local emergency medical services agency organized under
22 Section 1797.200 of the Health and Safety Code.

23 (2) The reading of a person's identification document by a health
24 care professional for reasons relating to the health or safety of that
25 person or an identification document issued to a patient by
26 emergency services.

27 (3) The reading of an identification document of a person who
28 is incarcerated in the state prison or a county jail, detained in a
29 juvenile facility operated by the Division of Juvenile Facilities in
30 the Department of Corrections and Rehabilitation, or housed in a
31 mental health facility, pursuant to a court order after having been
32 charged with a crime, or to a person pursuant to a court-ordered
33 electronic monitoring.

34 (4) Law enforcement or government personnel who need to
35 read a lost identification document when the owner is unavailable
36 for notice, knowledge, or consent, or those parties specifically
37 authorized by law enforcement or government personnel for the

1 limited purpose of reading a lost identification document when
2 the owner is unavailable for notice, knowledge, or consent.

3 (5) Law enforcement personnel who need to read a person's
4 identification document after an accident in which the person is
5 unavailable for notice, knowledge, or consent.

6 (6) Law enforcement personnel who need to read a person's
7 identification document pursuant to a search warrant.

8 (d) Subdivision (a) shall not apply to a person or entity that
9 unintentionally remotely reads a person's identification document
10 using RFID in the course of operating a contactless identification
11 document system unless it knows it unintentionally read the
12 document and thereafter intentionally does any of the following
13 acts:

14 (1) Discloses what it read to a third party whose purpose is to
15 read a person's identification document, or any information derived
16 therefrom, without that person's knowledge and consent.

17 (2) Stores what it read for the purpose of reading a person's
18 identification document, or any information derived therefrom,
19 without that person's knowledge and prior consent.

20 (3) Uses what it read for the purpose of reading a person's
21 identification document, or any information derived therefrom,
22 without that person's knowledge and prior consent.

23 (e) Subdivisions (a) and ~~(d)~~ (b) shall not apply to the reading,
24 storage, use, or disclosure to a third party of a person's
25 identification document, or information derived therefrom, in the
26 course of an act of good faith security research, experimentation,
27 or scientific inquiry, including, but not limited to, activities useful
28 in identifying and analyzing security flaws and vulnerabilities.

29 (f) Nothing in this section shall affect the existing rights of law
30 enforcement to access data stored electronically on driver's
31 licenses.

32 (g) The penalties set forth in subdivisions (a) and (b) are
33 independent of, and do not supersede, any other penalties provided
34 by state law, and in the case of any conflict, the greater penalties
35 shall apply.

36 ~~SECTION 1. It is the intent of the Legislature to enact technical~~
37 ~~and noncontroversial statutory changes relating to civil law.~~